

ACTION: NIO/ECOD

Reply to _____ due

on _____

Comments:

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Remarks:

Executive Registry
82-12527/1

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

November 8, 1982

9077/82

MEMORANDUM FOR:

Mr. Donald Gregg
Assistant to the Vice President for National Security Affairs

Mr. L. Paul Bremer III
Executive Secretary, Department of State

Mr. David E. Pickford
Executive Secretary, Department of Treasury

Colonel John H. Stanford
Executive Secretary, Department of Defense

Mr. Theodore B. Olsen
Assistant Attorney General, Office of Legal Counsel
Department of Justice

Mr. Stephen P. Shipley
Executive Assistant to the Secretary, Department of Interior

Ms. Jean Jones
Director, Executive Secretariat, Department of Commerce

Dr. Alton Keel, Associate Director for National Security
and International Affairs, Office of Management and Budget

[Redacted]

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Executive Secretary, Central Intelligence Agency

Mr. Dennis Whitfield
Executive Assistant to the U.S. Trade Representative

Mr. Edwin L. Harper
Assistant to the President for Policy Development

Mr. Martin Feldstein
Chairman, Council of Economic Advisers

Major Dennis Stanley
Special Assistant for National Security Affairs
Office of the Chairman, Joint Chiefs of Staff

Mr. Gerald S. Martin
Executive Administrator, Federal Emergency Management Agency

SUBJECT: Department of Commerce Section 232 Investigation of
Ferroalloys (C)

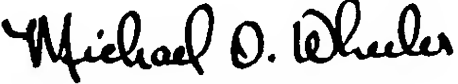
Attached for your review and comment is the issues/discussion
paper concerning the Department of Commerce Section 232

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investigation of ferroalloys. This paper, along with the Commerce Section 232 report, will be used as the basis for Presidential decision. (C)

Richard Boverie, Director of the NSC Staff Defense Group, will chair an interagency meeting at the SIG level on Wednesday, November 10, at 9:00 a.m. in Room 305. (U)

Following an interagency meeting at which the Bureau of Mines briefed on ferroalloy metal content supply to the U.S. during time of emergency, the interagency group decided that the supply of chromite and manganese ore is not a critical factor in this case.


Michael O. Wheeler
Staff Secretary

Attachments

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Interagency Discussion Paper on:
DEPARTMENT OF COMMERCE SECTION 232
INVESTIGATION OF FERROALLOYS

Under Section 232 of the Trade Expansion Act of 1962, the Secretary of Commerce, in consultation with the Secretaries of Defense and other agencies, conducted an investigation to determine whether imports of thirteen types of ferroalloys threatened to impair the national security. The Department of Commerce found that two ferroalloys -- high-carbon ferrochromium and high-carbon ferromanganese -- are "being imported into the United States in such quantities or under such circumstances as to threaten the impair the national security." This is the first positive finding under Section 232 authorities of the 1962 Act, for materials other than petroleum, although there have been fourteen investigations of various articles over the past twenty years. Two earlier Section 232 ferroalloys investigations (1964, 1976) resulted in negative determinations. As a result of a 1978 Section 201 investigation a temporary duty was imposed, expiring November 15, 1982. (C)

In submitting his report, the Secretary of Commerce recommends that the President accept the positive Section 232 finding and take the following actions:

- Upgrade, over ten years at an annual cost of \$33 million, chromite and manganese ore, currently held in the National Defense Stockpile, into high-carbon ferrochromium (e.g., needed to make stainless steel--there are no substitutes) and high-carbon ferromanganese (e.g., needed to make steel--there are no substitutes); and
- Request the interagency Trade Policy Committee to review the desirability of the tariff preference of 1.6% for high-carbon ferromanganese under the Generalized System of Preferences (GSP) (GSP treatment exempts certain developing countries from our normal tariff). Note: There is no current GSP treatment for ferrochromium. (C)

The Department of Commerce's positive finding, under Section 232, and its recommendations to the President are opposed by some government agencies. (C)

This action results in three separate but related issues.

- o Issues: 1. Section 232 Finding (Tab A)
2. Stockpile Reprocessing Program (Tab B)
3. Generalized System of Preferences Action (Tab C)

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Discussion

Tab A

Issue 1: Should the President accept the positive Section 232 finding that imports of high-carbon ferrochromium and high-carbon ferromanganese "threaten to impair the national security?" (C)

Basis for Supporting a Positive Finding

- The positive Section 232 finding by the Department of Commerce is supported by the facts presented in the Commerce ferroalloy report and by the statutory requirements of Section 232: (C)
 - o Using approved mobilization planning assumptions, a shortfall in the quantity of certain ferroalloy materials available to the U.S. during an emergency has been shown. (C)
 - o A relationship has been established between imports and the fall in domestic ferroalloy production. (C)
- While the recommended remedies (stockpile and GSP) is action to adjust imports, such actions will not conflict with our free trade policy. (C)
- If a positive determination is not made, there will be increased pressure from the Congress and the domestic industry to take actions limiting imports of ferroalloys. (C)
- A positive finding and the Commerce recommendations would send a signal about the Administration's commitment to maintain the defense-related industrial base with minimum interference in the free market system. (C)
- A positive Section 232 finding, coupled with the remedies proposed, will not encourage the proliferation of unwarranted requests for investigations under Section 232: (C)
 - o The 232 procedure, though subject to some uncertainties, is a very careful and demanding one. (U)
 - o There have been fourteen Section 232 investigations in the past twenty years; this is the first positive finding for materials other than petroleum. (C)
 - o The ferroalloy study found that imports threaten the national security for only two of the thirteen products investigated. (C)

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Basis for Making a Negative Finding

- The national security problem involving ferroalloys can be remedied without recourse to Section 232: (C)
 - o The President has existing independent authority to upgrade the chromite and manganese ore in the stockpile. (U)
- The 232 study assumes that no new ferroalloy production will be put on-line during time of emergency or war. (C)
- Other import relief avenues are open to the ferroalloy industry. (U)
- The ferroalloys consumption requirements in the 232 report exceed current U.S. steel production capacity by about 10%. (U)
- The positive Section 232 finding is unwise from trade and economic policy and national security perspectives. (C)
 - o Domestically, a positive finding on ferroalloys will encourage other basic industries to seek similar protection under the national security provision. This is the first such investigation by the Administration, and is being closely followed. (C)
 - o Internationally, a positive finding could send a negative signal about our commitment to an open trading system. Affected countries might seek retaliatory actions under GATT. (C)
- The ferroalloy industry could cite the President's finding of a threat to the national security to apply for additional import-related action (e.g., increased tariffs or quotas).
- If tariff or quota action is granted on ferroalloys, another national security problem could be created in the steel industry, which depends on imported high-carbon ferrochrome and high-carbon ferromanganese. (C)
- A positive finding might be viewed by Congressional critics as a rationale for an uneconomic bail-out program. (C)

Options

Option 1:

_____ Approve a positive Section 232 finding.

Supported by Department of Defense
Department of Commerce
Federal Emergency Management Agency
Department of the Interior

Option 2:

_____ Disapprove a positive Section 232 finding.

Supported by Department of State
Department of Treasury
Office of Management and Budget
Office of the U.S. Trade Representative
Council of Economic Advisers
Office of Policy Development

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Tab B



Issue 2: Should the President institute a ten-year stockpile reprocessing program at an additional* estimated annual cost of \$33 million *(as approved by the Budget Review Board)? (C)

Basis for Supporting the Stockpiling Action

- Using Emergency Mobilization Preparedness Board (EMPB) industrial base guidance, a shortfall has been identified in the quantity of high-carbon ferrochromium and high-carbon ferromanganese available to the U.S. during an emergency. (C)
- The recommended stockpile action would eliminate this shortfall over a ten-year period by helping to maintain existing domestic capacity, by giving domestic industry stockpile reprocessing work, and by increasing our stockpile. (C)
- Even though there are higher stockpile priorities, the reprocessing program would help maintain existing domestic capacity, maintaining existing domestic capacity being our highest defense industrial base priority. Further, the priority ranking of ferrochromium and ferromanganese in the stockpile acquisition program is based on materials requirements and industry conditions that date from the last stockpile review in 1980. If current industry conditions were taken into account, the stockpile priority of ferroalloys would probably increase. (C)
 - o If domestic ferroalloy capacity is not maintained, our stockpile requirement for ferroalloys will grow and ferroalloys will become a greater priority than now. (C)
 - o For every pound of annual domestic ferroalloy production we lose, our stockpile goal must be increased by three pounds (by law, we plan our industrial mobilization requirements for a three-year war). (C)

Basis for Opposing the Stockpile Action

- The recommended stockpile action is put forth without recalculating goals for all materials and without placing mobilization requirements for ferroalloys in the context of overall mobilization needs or overall national defense requirements. (C)
- Ferrochromium and ferromanganese are lower priority materials for National Defense Stockpile acquisition than such materials as titanium and rubber, of which substantial stockpile deficits exist. (C)
 - o If the recommended stockpile action is followed, it would divert resources away from high priority stockpile acquisition items to ferroalloy reprocessing--a lower priority. (C)

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Recommended Options

Option 1:

_____ Approve a ten-year stockpile reprocessing program under approved funding levels and means (as part of a positive Section 232 finding).

Supported by Department of Defense
Department of Commerce
Department of Interior
Federal Emergency Management Agency

Option 2:

_____ Through the interagency Annual Materials Plan process, determine the desirability of the stockpile reprocessing program relative to our other national security materials needs and priorities.

Supported by Department of Treasury
U.S. Trade Representative
Council of Economic Advisors
Office of Policy Development

Note: DOD believes that the reprocessing program should begin in early FY 83 to be effective.

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Tab C



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Issue 3: Should the President ask the Trade Policy Committee to review the desirability of continued Generalized System of Preferences (GSP - duty-free treatment) as an action connected to the Section 232 Investigation? (C)

-- Following discussions with the Department of Commerce and the U.S. Trade Representative, both concur that the interagency Trade Policy Committee (TPC) should review the desirability of continued GSP treatment for ferromanganese imported from all GSP-treatment countries.

If the President accepts Commerce's recommended positive 232 finding (Issue 1), this TPC review will be presented as an action following from this positive finding. If a negative finding is made, the TPC review will be instituted without linkage to the 232 finding.

Currently the TPC is reviewing GSP treatment for ferromanganese from Brazil. (C)

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